IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.979 OF 2005

Hotel Vijayraj, Partnership firm
through its Partners viz.
1. Shri Bapuso Appaji Patravale & Ors. : Petitioners

V/s.

Mahavir Co-operative Bank Ltd. & Ors. : Respondents

...

Mr.R.S.Datar for the petitioners.

Mr.Tejpal S. Ingale for the respondent nos.1 & 2.

...

CORAM : S.A. BOBDE, J.

July 4, 2005.

P.C.:

1. Rule, returnable forthwith.

Mr.Ingale, learned counsel, appears and waives service of notice on behalf of the respondents nos.1 & 2.

Heard by consent.

2. The petitioner has challenged the order of the Divisional Joint Registrar, Co-operative Societies, Kolhapur, dated 15.1.2005 refusing to entertain the petitioners' application on the ground of want of jurisdiction. Admittedly, the petitioners' revision application was moved after eight years of the issue of

the recovery certificate under section 101 of the Maharashtra Co-operative Societies Act, 1960. The respondent-Bank objected on the ground of delay. The revisional Court has observed:-

> "Therefore, in the interest of natural justice delay can be condoned."

There is no specific order of the Court that the delay is condoned and the grounds therefor. The conclusion drawn by the revisional Court is as under:-

> "Under this circumstance, the issues raised under this Revision are out of the jurisdiction of this authority."

3. In the circumstances of the case, I am of view that the matter must be remitted back to the Divisional Joint Registrar, Co-operative Societies, Kolhapur Division, Kolhapur, for a clear decision, in accordance with law as to whether the delay is condoned and his reasons therefor and the reasons why the matter is beyond his jurisdiction.

4. The rule is made absolute in the above terms.

S.A. BOBDE, J.